## REMARKS

In response to the Office Action, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Discussion of Claim Objections

In the Office Action, the Examiner objected to Claims 1-8 because of certain informalities. Applicant respectfully submits that these have been corrected by the above amendments.

Discussion of Claim Rejections Under 35 U.S.C. § 112

In the Office Action, the Examiner rejected Claims 5, 7, 8, 10, and 12 under 35 U.S.C. § 112, second paragraph. Applicant respectfully submits that Claims 5, 7, 8, 10, and 12 have been corrected by the above amendments. Claims 5, 7, 8, 10 and 12 have been amended, such that all limitations cited by the Examiner have sufficient antecedent basis.

The Examiner contended that the phrase "estimate information" was unclear in Claims 7 and 8. Therefore, Claims 7 and 8 have been amended to replace the term "estimate information" with the term "manufacturing cost." Additionally, to address the Examiner's objection that the comparison in Claim 8 is unclear, Claim 8 has also been amended such that the term "estimated price" is replaced by "manufacturing cost."

The Examiner contends that Claims 10 and 12 fail to disclose how the demand forecast and the planned selling price are calculated from the answer recording file. However, the Claims include all methods of calculating the demand forecast and the planned selling price from the answer recording file. More detailed descriptions regarding several example methods are included in the specification, for example, on Page 17-18 and on Page 27. To further address the Examiner's concern, Claims 10 and 12 have been amended to specify that the calculating is "in order to determine financial risk regarding the production of the commodity."

The Examiner also objects to Claim 10, contending that the Claim does not disclose what the condition of said planned selling price is. The Claim includes methods comprising sending

purchase information to each person having made a provisional reservation by answering said desired purchasing price that satisfies *any* condition of said planned selling price. The specification discloses examples of such conditions, including that purchase information can be sent to all users (Page 27) or a subset of answerers. For example, specific answerers willing to pay an acceptable commodity price can be identified as purchase candidates (Page 13), and purchase information can be sent to purchase candidates (Page 17). However, the Applicant note that the specification does not need to include examples of all conditions. The current specification is sufficient to enable one skilled in the art to perform the described method, including identifying a condition of said planned selling price.

Discussion of Claim Rejections Under 35 U.S.C. § 102(e)

In the Office Action, the Examiner rejected Claims 1-4 and 6 under 35 U.S.C. § 102(e) as being anticipated by Henson (USP 6,167,383). Applicant respectfully submits that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *See* M.P.E.P. § 2131. Applicant respectfully submits that Henson fails to teach or suggest at least one limitation from each of the above-listed claims.

First, the Examiner states that a computer being customized is a commodity under development. However, the Applicants respectfully contend that a computer being customized is not, in fact, under development. Henson does not disclose that the computers configured in the described method were under development. It is highly probable that the computers used in this method were already fully developed. One of the goals of the disclosed methods is to notify the user when any selected item has a lead time over three weeks (Column 14, Lines 62-64). Three weeks would not allow a manufacturer sufficient time to process answers provided by users, to develop computers incorporating these answers, and ship the computers to the users. Instead, manufacturers that would utilize the method of Henson are likely to have already developed the product. Simply because the users can customize the computer does not indicate that the computer has not already been developed. Instead, it is analogous to assembling parts of a product. Accordingly, Henson discloses that the described method provides compatibility warnings if the specifications selected by the user are not compatible (Column 15, Lines 24-30).

The parts of the computers have already been manufactured, and it has already been determined how the parts can be assembled. Therefore, the computers are not under development.

Second, as amended, Claim 1 specifies that the answer provided by an answerer "provides quantitative information regarding the future demand of the commodity under development." The Examiner states that the answer in Henson is the options chosen by the user. However, Henson does not disclose or suggest that such answers provide any information regarding the demand of the commodity, much less the future demand. In one embodiment of the subject Application, the user's commitments (the needs implying the intention of purchasing) of commodity factors such as the commodity specifications, prices, and delay of availability can be collected widely on Internet and can provide information regarding the future demand of the commodity. Further, the user can act as an agent for carrying out the business activities, including marketing, investment, planning, and selling, of the commodity.

Third, even if manufacturers were to gain access of answers provided by users in the method of Henson, which is not disclosed, this would still only provide qualitative, not quantitative information regarding the future demand of the commodity. An advantage of embodiments of the subject Application is a decrease in manufacturing risk, which is attributable to the quantitative information provided by users' answers. Users can provide information about desirable commodity specifications and prices. Based on this quantitative data, manufacturers can determine popular specifications and an appropriate price. Users can then commit to buying the product, thereby eliminating the risk of estimating or guessing the size or type of market interested in a particular product or the risk of estimating or guessing the type or price of product that is of interest to a particular size or type of market. Answers provided in the method of Henson do not provide quantitative information, as the answers do not indicate the future demand of the commodity. They do not indicate the future demand because the answers only provide information about one user's current demand. Additionally, the method does not indicate that more than one answer is assessed. The method of Henson, unlike embodiments of the subject Application, cannot be used to determine investment risk.

Discussion of Claim Rejections Under 35 U.S.C. § 103(a)

To establish a *prima facie* case of obviousness a three-prong test must be met. First, there must be some suggestion or motivation, either in the references or in the knowledge generally available among those of ordinary skill in the art, to modify the reference. Second, there must be a reasonable expectation of success found in the prior art. Third, the prior art reference must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991).

*Rejection over Henson in view of Tavor*

In the Office Action, the Examiner rejected Claim 5 under 35 U.S.C. § 103(a) as being obvious over Henson in view of Tavor (USP 6,553,347).

First, because Claim 5 depends on Claim 1, Applicants respectfully submit that Claim 5 should be allowed based on the differences between the subject Application and Henson, as described above.

Second, it would be unobvious to combine the references of Henson and Tavor. Henson describes that different computer specifications can be provided to a user. The Examiner contends that by combining this method with the method of Tavor, users could chose a price for a product. However, if users were allowed to chose the price in the method of Henson, users would always chose the lowest price.

By combining the references, the essence of the method of Tavor is lost. First, in the method of Tavor, users provide all but the first price (see Abstract). Tavor indicates that users enjoy the "spark" of finding a "bargain" (Column 1, Lines 37-40). Merely incorporating a list of prices into the method of Henson does not provide the bargaining environment of Tavor. Additionally, in the method of Tavor, users are motivated to provide a reasonable price, because negotiations of the price can be terminated if the suggested price is too low (Column 11, Lines 1-8). However, this motivation is lost by the proposed combination of the method of Henson and the method of Tavor. Therefore, it would be unobvious and to combine the references of Tavor and Henson.

*Rejection over Henson in view of Van Horn in further view of Creese*

In the Office Action, the Examiner rejected Claim 7 under 35 U.S.C. § 103(a) as being obvious over Henson in view of Van Horn (USP 6,631,356) in further view of Creese, Robert C.,

"Break-Even Analysis – The Fixed Quantity Approach," Transactions of AACE International, 1993, pp. A.1.1-A.1.7.

First, because Claim 7 depends on Claim 1, Applicants respectfully submit that Claim 7 should be allowed based on the differences between the subject Application and Henson, as described above.

Second, it would be unobvious to combine the references of Henson and Van Horn. The method of Henson allows users to customize computers. This can be advantageous, as users can create computers specific to their needs. However, the method of Van Horn requires that many users agree upon one product to purchase. It would be undesirable to incorporate this step into the method of Henson. It would eliminate the purchase of the exact specifications desired by the users, which are currently provided in the method of Henson. Further, it would slow the purchasing process described in Henson. One of the goals of the disclosed methods of Henson is to notify the user when any selected item has a lead time over three weeks (Column 14, Lines 62-64). Requiring that many users converge upon specific computer specifications adds significant time to this lead time. In the method of Van Horn, users must wait to be notified regarding whether a critical mass of users have elected to purchase the product. In some cases, the critical mass is not attained. It would be undesirable for a computer company to lose the business of these users. Therefore, one of skill in the art would be unmotivated to combine the references in the manner suggested by the Examiner.

Third, it would be unobvious to combine the reference of Creese with that of Van Horn and Henson. It would be undesirable to incorporate a pricing mechanism in the method of Henson that would require waiting for other users to indicate their intent to purchase computers with specific specifications. Accordingly, the method of Henson does not incorporate such a method and products are associated with predetermined prices, which are determined by forecasting appropriate prices, not on the known number of purchase candidates.

Fourth, Claim 7 does not restrict commodity prices to be the same price. However, the method of Creese implies that all commodities are sold at the same price.

Finally, combining the references of Henson and Van Horn do not produce the matter claimed in Claim 7. Claim 7 allows for users to select specific specifications of products, thereby influencing the development of new products. Meanwhile, as discussed above, the

products involved in the method of Henson are already developed. Therefore, the selection of specifications does not influence the development of the commodity.

*Rejection over Henson in view of Van Horn in further view of Creese in further view of Tavor*

In the Office Action, the Examiner rejected Claim 8 under 35 U.S.C. § 103(a) as being obvious over Henson in view of Van Horn in further view of Creese in further view of Tavor.

First, because Claim 8 depends on Claim 1, Applicants respectfully submit that Claim 8 should be allowed based on the differences between the subject Application and Henson, as described above. Additionally, because Claim 8 depends on Claim 7, Applicants respectfully submit that Claim 8 should be allowed based on the lack of motivation to combine the references of Henson, Van Horn, and Creese, as described above.

Second, it would be unobvious to combine the method of Henson and Van Horn with a method of Tavor. By integrating an interactive process to determine the price, the time of purchasing a computer described in the method of Henson is further extended. As stated above, the method of Henson desires that users quickly arrange the purchase and quickly receive the product. Both the purchasing and the sending of the product are delayed by incorporating a message requesting the user to increase the desired purchasing price.

Finally, the method of Tavor is intended to identify a discounted price of the product. However, embodiments of the subject invention relate to enhancing the possibility of producing a product by identifying an appropriate price. It would be unobvious to incorporate the method of Tavor to produce Claim 8, due to the differences in intent.

*Rejection over Van Horn in view of Matsuzaki*

In the Office Action, the Examiner rejected Claims 9 and 11 under 35 U.S.C. § 103(a) as being obvious over Van Horn in view of Matsuzaki (USP 5,357,439).

First, Applicants respectfully submit that the method disclosed in Van Horn does not include "receiving, from said plurality of user terminals, votes concerning the specifications and image information displayed on said Web page". The Examiner contends that the method of Van Horn does include "receiving, from said plurality of user terminals, votes concerning information displayed on said Web page and refers to Column 4, Lines 11-23 of Van Horn. The cited text

states that buyers can help choose which products and brands will be featured in future co-ops and states that this input feature can actually create a market for a particular product. The method requires that at least one user inquire about a specific product (such as a specific type of watch) and then other users express interest in that product (Column 4, Lines 11-23). However, such a method does not comprise receiving votes concerning the specifications, as the users are not voting about the specifications. Instead, they are merely expressing interest in one particular product which happens to include specific specifications, not expressing interest in specific specifications of a more general product. The subject Application differs from this reference, as it allows users the freedom to customize their product to include the desired specifications. Only the subject Application, not the method of Van Horn, provides an advantage over, for example purchasing a pre-manufactured product, in which the user cannot specify his desired specifications.

Second, the Examiner notes that Van Horn fails to disclose receiving votes concerning the image information displayed on said Web page, but contends that it is obvious in view of Matsuzaki. However, the references cannot be combined to produce the subject Claims, as the users in Van Horn do not vote on any information (specifications or image information), but merely vote on a product characterized by specific specifications or image information. Again, this limits the degree to which users can customize the product.

Third, one would be unmotivated to combine the two references. The purpose of the method of Van Horn is to determine a product in which many users are interested in purchasing. There are many types of image information (such as color, size, proportions, etc.) and the types image information can vary across products. Neither the method of Van Horn nor Matsuzaki describe the how the types of image information that would be voted on are decided. Therefore, if users were to vote on information in the method of Van Horn (which is not disclosed, see above), users would vote on too many parameters, thereby reducing the possibility that users would converge upon a single product to purchase.

Finally, as amended, Claims 9 and 11 comprise "receiving, from said plurality of user terminals, design preference information regarding the specifications displayed on said Web page". Neither of the cited references discloses receiving design preference information from a plurality of user terminals.

*Rejection over Van Horn in view of Matsuzaki*

In the Office Action, the Examiner rejected Claims 10 and 12 under 35 U.S.C. § 103(a) as being obvious over Van Horn in view of Matsuzaki (USP 5,357,439).

First, the method of Van Horn includes receiving from users the maximum price they are willing to pay for the product, which is the current price or just below the current price (Column 8, Lines 39-43). Once all prices are received, a single price for the product is calculated for all members (Column 9, Lines 8-10). However, in the subject Application, purchasers can buy the product at different prices. Further, Van Horn focuses on the number of units sold on the condition that all purchasers buy the commodity at the same price. On the contrary, the subject matter of Claims 10 and 12 focus on the potential sales amount and conceive that the purchasers buy the commodity at different prices. Thus, the potential sales amount and the number of units sold are not in proportion. Focusing on the potential sales amount and focusing on the number of units sold do not have the same meaning.

Claims 10 and 12 have been amended to include wherein the demand forecast and planned selling price calculated from said answer recording file is calculated in order to determine financial risk of production of the commodity. The Examiner contends that Van Horn discloses a method of calculating demand forecast and planned selling price from said answer recording file, but the reference does not assess the financial risk of production of the commodity. Indeed, the disclosed method generally relates to products that are already manufactured. On the contrary, the present invention is to perform in the planning stage prior to development, thereby to reduce the risk accompanying the development. This is the entirely different effect from that of Van Horn.

Summary

All new claims presented above are of course intended to avoid the prior art, but are not intended as replacements or substitutes of any cancelled claims. They are simply additional specific statements of inventive concepts described in the application as originally filed.

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims for patentability purposes, the reasons therefore, and arguments in support of the patentability of the pending claim set are presented above. Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and the claims would satisfy the statutory requirements for patentability without the entry of such amendments. In addition, such amendments do not narrow the scope of the claims. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language. In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Respectfully submitted,

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